

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

STEPHEN ZARATE,
 Plaintiff(s),
 v.
 PRUITT, et al.,
 Defendant(s).

Case No. 2:22-cv-01449-APG-NJK

Order

[Docket No. 20]

Service has not been completed on the Defendants against whom Plaintiff's complaint survived screening. On November 22, 2023, summonses were returned unexecuted with notations that the subject defendants no longer work at the address provided. Docket No. 19. On December 4, 2023, Plaintiff filed a request asking for service to be completed by using addresses from tax documents that he appears to believe are accessible by the Court (or the United States Marshals Service). Docket No. 20.

As an initial matter, the Clerk's Office has issued a notice that the latest filing fails to comply with the governing rules that requests for relief be properly fashioned as a motion and comply with the formatting of a motion. Docket No. 20. The Court will exercise its discretion to consider the instant request notwithstanding these technical defects. Nonetheless, Plaintiff must ensure that he complies with all governing rules moving forward.

Turning to the substance of the request, Plaintiff has effectively asked the Court and the Marshal to act as his investigators to find addresses for the subject defendants by somehow accessing their tax records. Docket No. 20 at 3. This the Court cannot do. The Court has elsewhere outlined the procedures and responsibilities attendant to effectuating service in a prisoner civil rights case in which the plaintiff is proceeding *in forma pauperis*:

1 In cases involving a plaintiff proceeding *in forma pauperis*, service
2 on the defendant may be effectuated by the United States Marshal.
3 Nonetheless, it is ultimately the plaintiff's responsibility to obtain
4 an address at which the defendant may be served by the Marshal.
5 Moreover, when the Marshal is not able to effectuate service based
6 on the information provided, the plaintiff must seek further relief to
7 remedy that situation. While the Court has a duty to construe the
8 filings of a *pro se* litigant liberally, it does not act as his attorney and
cannot make decisions on his behalf regarding how his case should
proceed. [I]t is [the plaintiff's] responsibility once the initial service
attempt proved unsuccessful to file a motion identifying the
unserved Defendant(s) and specifying a more detailed name and/or
address for said Defendant(s), or whether some other manner of
service should be attempted.

9 *Gibbs v. Fey*, 2017 WL 8131473, at *3 (D. Nev. Nov. 14, 2017) (internal citations and quotations
10 omitted), *adopted*, 2018 WL 1157544 (D. Nev. Mar. 2, 2018). The same framework for service
11 applies in this case: "If Zarate wishes to have service again attempted on an unserved defendant,
12 then a motion must be filed with the court identifying the unserved defendant(s) and specifying a
13 more detailed name and/or address for said defendants, or whether some other manner of service
14 should be attempted." Docket No. 10 at 9.

15 In short, if Plaintiff seeks further service attempts on any of the remaining Defendants at a
16 new address, then Plaintiff must provide that new address. The request asking the Court (or the
17 Marshal) to find new addresses by investigating tax records is **DENIED**.

18 IT IS SO ORDERED.

19 Dated: December 7, 2023

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Nancy J. Koppe
United States Magistrate Judge
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